

U.S. Department of Justice

United States Attorney
Southern District of New York

MEMO ENDORSED
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86 Chambers Street, 3rd Floor
New York, New York 10007

April 30, 2008

VIA HAND DELIVERY

Hon. Richard M. Berman
United States District Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 650
New York, New York 10007

Re: Drubner & Hartley v. United States Department of Commerce, et al.,
08 Civ. 02355 (RMB)

Dear Judge Berman:

On behalf of the Defendants in the above-referenced matter, the United States Department of Commerce and the National Technical Information Service (the "Government"), enclosed please find a courtesy copy of the Government's Answer to the above-referenced Complaint brought pursuant to the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552. A copy of the foregoing has been filed in Court today, with service copies sent to Plaintiff Drubner & Hartley, L.L.C., via facsimile and First Class Mail.

Additionally, in accordance with the Court's individual practices, the parties hereby jointly request a pre-motion conference to discuss potential cross-motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. Plaintiff's FOIA Complaint alleges that the Government improperly withheld records in response to Plaintiff's FOIA request. The Government denies such allegations.

Alternatively, if the Court is inclined to allow summary judgment briefing without a pre-motion conference, the parties have conferred and propose the following schedule:

May 30, 2008:	Plaintiff's Motion for Summary Judgment
June 30, 2008:	Government's Opposition to Plaintiff's Summary Judgment Motion and Cross-motion for Summary Judgment
July 14, 2008:	Plaintiff's Reply and Opposition
July 28, 2008:	Government's Reply


Finally, the Government is aware that a pre-trial conference has been set for May 5, 2006. Counsel for the Government, however, will be out of the country May 1 through May 8, 2008, and on trial the week of May 12, 2008. Accordingly, we also respectfully request that the May 5, 2006 conference be adjourned. Plaintiff does not object to the request for adjournment.

We thank the Court for its consideration.


Respectfully,

MICHAEL J. GARCIA
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Southern District of New York

By:


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conference adjourned to 5/20/08	
Ⓢ 9:30. No motions	
in the interim.	
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SO ORDERED:	
Date: 5/1/08	
Richard M. Berman, U.S.D.J.	